UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1996/NGO/5
7 August 1996

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-eighth session
Agenda item 10

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

Written statement submitted by the Society for Threatened Peoples, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV)

[19 July 1996]

1. At the fifty-second session of the Commission on Human Rights this year, the annual reports of the Special Rapporteur on torture (E/CN.4/1996/35/Add.1), the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/1996/4), the Working Group on Arbitrary Detention (E/CN.4/1996/40) and the Working Group on Enforced or Involuntary Disappearance (E/CN.4/1996/38) raised the issue of the human rights of detainees in Tibet. The Working Group on Arbitrary Detention, for example, once again declared the detention of 21 Tibetan political prisoners as "arbitrary" in its decision 46/1995. In April 1996, the Committee against Torture, while scrutinizing China's periodic report, concluded that "the special environment which exists in Tibet continued to create conditions that had resulted in alleged maltreatment and even death of persons held in police custody and in prison".

2. Similarly, human rights monitoring organizations have released several extensive reports describing the situation of the human rights of detainees in Tibet. One of these reports, "A season to purge" by International Campaign for Tibet (1996) said: "Special mention of sexual abuse against female detainees, particularly nuns, is warranted due to the extreme brutality which they have experienced. Numerous credible reports indicate that nuns are often forced to strip off their clothes when subjected to beatings and torture. Torture has involved the rape of women and nuns by inserting electric batons in their vaginas. Tibetan women and nuns have also been raped in prison. These forms of torture have occurred with a number of female and/or male officials or guards present in the room as well as with other prisoners present."

3. "Cutting off the serpent's head", a report on Tibet by Human Rights Watch and Tibet Information Network (1996), described how: "When demonstrators were detained in Lhasa or police raided monasteries and arrested their inhabitants, beatings and electric shock were almost routine. When Tibetans were caught trying to reach or return from India, they, too, were routinely beaten, sometimes to obtain information but often to intimidate and thereby stop the flow of information between Tibetans in India and those in Tibet."

4. Amnesty International, in its latest report, "No one is safe in China" said: "In Tibet, people are frequently tortured and ill-treated when held on suspicion of supporting Tibetan independence or during police raids on monasteries. In January 1995, for example, 20-year-old Pasang and 22-year-old Ngodrup, two monks from the Joknang temple in Lhasa, were reportedly beaten while held in police custody for three days. Pasang was said to have been beaten so badly that he could not stand up and had severe back pain after his release."

5. Many reports from Tibet confirm that Tibetan children are also known to have been tortured. In one case, Sherab Ngawang a child of 15, died in May 1995. In one of the several testimonies received by Amnesty International, a teenager said that he and five other youths, including one aged 13, were kicked and beaten with belts by police officers when they were arrested in December 1993 for singing nationalist songs while walking in central Lhasa. After being taken to a police station, the youths were forced to remove most of their clothes and were beaten with a whip made of wires. Article 37 (b) of the Convention on the Rights of the Child states: "No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time." China ratified this important convention on 2 March 1992.

6. The Chinese authorities have repeatedly asserted that the practice of torture was "banned" according to China's constitution. However, on 29 April this year, China's Procuratorial Daily reported that in Tibet, in January 1995, a police chief and two others, including court officials, "tied up, beat and abused the woman, identified as Danzhen Wangmu (Tenzin Wangmo), from midnight until the next morning". This Tibetan woman "suffered injuries to the legs, buttocks and wrists that required 65 days' treatment in hospital", the newspaper said.

7. The above situation clearly shows that the use of torture or other degrading forms of ill-treatment and abuse are widespread in Tibet, causing untold sufferings to detainees, political or otherwise. For example, Lodroe Gyatso, who is serving 15 years' imprisonment for murder, was reportedly beaten and placed in an isolation cell in Drapchi prison on 4 March 1995. According to reports, he was being punished for shouting slogans in support of Tibetan independence and attempting to circulate political literature in Drapchi prison. In May 1996, Gelek Jinpa, a 13-year-old novice monk was severely beaten after being arrested at Gaden monastery. Between 1994 and 1995, there have been six known cases of deaths caused by torture and ill-treatment of Tibetan prisoners of conscience (Phuntsok Yangkyi, Tsering Tashi, Gyaltsen Kelsang, Sherab Wangmo, Sherab Ngawang and Sonam Tashi).

8. If the practice of torture is routine in Chinese prisons in Tibet, the situation of arbitrary detention is equally disturbing. In recent years, the Chinese authorities have detained more than 500 Tibetans, solely for expressing their political opinions through non-violent actions. Between May and July 1995, more than 50 Tibetans were arbitrarily detained in Tibet for openly supporting the Dalai Lama in his recognition of the new Panchen Lama of Tibet. In May this year, as many as 60 Tibetans including monks and nuns were arrested for opposing a Chinese edict banning the display of photographs of the Dalai Lama. In August 1995, Ngawang Choephel, a Tibetan exiled in India was arbitrarily detained while he was documenting the Tibetan performing arts tradition in central Tibet. The increase in arbitrary detentions in Tibet also raises serious concern about disappearances. The Chinese authorities generally provide no information about the whereabouts of those being detained.

9. The enforced disappearance of 7-year-old Gedhun Choekyi Nyima, now recognized as the world's youngest political prisoner, for the past 15 months raises serious questions about the child's well-being and whereabouts. The Society for Threatened Peoples once again urges the Chinese authorities that they publicly declare his whereabouts and immediately release him.

10. In the area of the administration of justice, there are again systematic abuses in Tibet. Trials for example, are merely a formality, with guilt being determined during the investigation and interrogation process by officials of the Communist Party. Arrested Tibetans are deemed guilty in the eyes of the Chinese criminal system and are therefore not given the opportunity to prove themselves innocent before an independent and impartial tribunal. Judges and lawyers are trained to abide by the Party line, which is to label all Tibetan activists as "separatists" conducting "crimes against the State". The independence and impartiality of the judiciary and legal profession can, therefore, operate only in theory, but never in practice.

11. Last year Eastern Express, a Hong Kong newspaper, revealed that the Chinese Government misled the Working Group on Arbitrary Detention when Beijing replied to the communications from Geneva. The article 1/ says that

---

1/ "U.N. misled over China dissidents", Eastern Express, Hong Kong, 10 August 1995.

Gyaltsen Dolkar, a Tibetan nun, was sentenced in 1990 to four years in jail for "crimes of counter-revolutionary propaganda" by Lhasa's Intermediate Court. Her sentence was tripled to 12 years on 8 October 1993 for singing songs supporting Tibetan independence at Drapchi prison. However, in May 1994, her case was reported to the United Nations by the Chinese Government as that of "subversive" crime. No mention was made of the original sentencing for the crime of "counter-revolutionary propaganda" or the extension of her sentence. "Subversion" is a separate crime listed under article 92 of China's Criminal Law and is punishable by death or a minimum of 10 years in prison.

12. There are several examples of very long sentences in Tibet. These include the 17 to 19-year sentences imposed on 4 Drepung monks who formed a pro-democracy group in March-April 1989, sentences of 13 to 15 years imposed on 5 villagers who organized a pro-independence demonstration in the Gyama valley in June 1992 and sentences of 12 to 15 years for 4 monks from Chamdo Pasho accused of producing nationalist posters in March 1994. Most sentences over 10 years currently being served, however, are the result of extensions imposed for breaches of prison discipline. Our data record 30 such cases, including 14 nuns whose sentences were extended by an average of 6 years each in October 1993 for singing songs in praise of the Dalai Lama in their cells at Drapchi prison. 2/

13. Under these circumstances, the human rights of detainees have routinely been suppressed by the Chinese authorities in Tibet. China is committing these human rights abuses with impunity, while no independent organizations, including the International Red Cross, are allowed to inspect prisons and labour camps. The Society for Threatened Peoples urges the Sub-Commission on Prevention of Discrimination and Protection of Minorities to deal seriously with the question of the human rights of detainees in China and Tibet.

2/ Human Rights Watch/Tibet Information Network, "Cutting off the serpent's head - Tightening control in Tibet, 1994-1995", March 1996.